

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Phillip Hannah and Cecilia Hannah,)	Case No. 4:18-cv-00359-DCC
)	
Plaintiffs,)	
)	
v.)	ORDER
)	
Florence School District One, Florence)	
County Sheriff's Department, Daniel E.)	
Brown,)	
)	
Defendant.)	
_____)	

This matter is before the Court upon Plaintiffs' complaint alleging violations of their civil rights pursuant to 42 U.S.C. § 1983. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Kaymani D. West for pre-trial proceedings and a Report and Recommendation ("Report"). On July 11, 2019, Defendants Brown and Florence County Sheriff's Office filed a motion to dismiss and, on July 16, 2019, Defendant Florence School District One filed a motion to dismiss. ECF Nos. 51, 54. On July 11, 2019, and July 17, 2019, this Court issued Orders pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir.1975), advising Plaintiff Phillip Hannah¹ of the summary judgment/dismissal procedure and the possible consequences if he failed to respond adequately. ECF Nos. 52, 56. Despite the explanation of the summary judgment/dismissal procedure and the

¹ Plaintiff Cecilia Hannah resolved her claims against Defendants on June 19, 2019. ECF No. 48.

possible consequences for failing to respond, Plaintiff Phillip Hannah did not respond. On September 9, 2019, the Magistrate Judge directed Plaintiff Phillip Hannah to inform the Court whether he wished to pursue his claims and to respond to the motions by September 23, 2019. ECF No. 61. The Magistrate Judge again warned Plaintiff Phillip Hannah that failing to respond could subject his claims to dismissal with prejudice. Plaintiff Phillip Hannah has not filed any document in response to the motions or indicating that he intends to proceed with this action.

On September 30, 2019, the Magistrate Judge issued a Report recommending that this action be dismissed pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute. ECF No. 65. The Magistrate Judge advised the Plaintiff Phillip Hannah of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. He did not file objections to the Report, and the time to do so has lapsed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating

that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the recommendation of the Magistrate Judge. Accordingly, this action is **DISMISSED** with prejudice.²

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.
United States District Judge

October 31, 2019
Spartanburg, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

² The motions to dismiss [51, 54] are found as **MOOT**.